

PATENT COOPERATION TREATY

From the
INTERNATIONAL PRELIMINARY EXAMINING AUTHORITY

To:

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PCT

WRITTEN OPINION OF THE
INTERNATIONAL PRELIMINARY
EXAMINING AUTHORITY

10 OCT 2005 (PCT Rule 66)

7 Dec '05

RECEIVED

Date of receipt
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07.10.2005

Applicant's or agent's file reference
11346P5 WO/KTC

REPLY DUE

within 2 month(s)
from the above date of mailing

International application No.
PCT/GB2004/004369

International filing date (day/month/year)
15.10.2004

Priority date (day/month/year)
07.11.2003

International Patent Classification (IPC) or both national classification and IPC
A01M1/20

Applicant
RECKITT BENCKISER (AUSTRALIA) PTY LIMITED et Al.

- The written opinion established by the International Searching Authority:
 is is not
 considered to be a written opinion of the International Preliminary Examining Authority
- This second report contains indications relating to the following items:

- Box No. I Basis of the opinion
- Box No. II Priority
- Box No. III Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
- Box No. IV Lack of unity of invention
- Box No. V Reasoned statement under Rule 66.2(a)(ii) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
- Box No. VI Certain documents cited
- Box No. VII Certain defects in the international application
- Box No. VIII Certain observations on the international application

CASE NUMBER:

11346P5 WO

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RECORDS K4

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MAILS

- The applicant is hereby invited to reply to this opinion.

When? See the time limit indicated above. The applicant may, before the expiration of that time limit, request this Authority to grant an extension, see Rule 66.2(e).

How? By submitting a written reply, accompanied, where appropriate, by amendments, according to Rule 66.3. For the form and the language of the amendments, see Rules 66.8 and 66.9.

Also: For the examiner's obligation to consider amendments and/or arguments, see Rule 66.4bis. For an informal communication with the examiner, see Rule 66.6.

If no reply is filed, the international preliminary examination report will be established on the basis of this opinion.

- The final date by which the international preliminary report on patentability (Chapter II of the PCT) must be established according to Rule 69.2 is: 07.03.2006

Name and mailing address of the international
preliminary examining authority:



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**WRITTEN OPINION OF THE INTERNATIONAL
PRELIMINARY EXAMINING AUTHORITY**

International application No.
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Box No. I Basis of the opinion

1. With regard to the **language**, this opinion is based on the international application in the language in which it was filed, unless otherwise indicated under this item.
 - This opinion is based on translations from the original language into the following language , which is the language of a translation furnished for the purposes of:
 - international search (under Rules 12.3 and 23.1(b))
 - publication of the international application (under Rule 12.4)
 - international preliminary examination (under Rules 55.2 and/or 55.3)
2. With regard to the **elements** of the international application, this opinion is based on (*replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this opinion as "originally filed"*):

Description, Pages

1-23 as originally filed

Claims, Numbers

1-80 received on 19.08.2005 with letter of 19.08.2005

Drawings, Sheets

1/8-8/8 as originally filed

- a sequence listing and/or any related table(s) - see Supplemental Box Relating to Sequence Listing.

3. The amendments have resulted in the cancellation of:
 - the description, pages
 - the claims, Nos.
 - the drawings, sheets/figs
 - the sequence listing (*specify*):
 - any table(s) related to sequence listing (*specify*):
4. This opinion has been established as if (some of) the amendments had not been made, since they have been considered to go beyond the disclosure as filed, as indicated in the Supplemental Box (Rule 70.2(c)).
 - the description, pages
 - the claims, Nos.
 - the drawings, sheets/figs
 - the sequence listing (*specify*):
 - any table(s) related to sequence listing (*specify*):

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**Box No. V Reasoned statement under Rule 66.2(a)(ii) with regard to novelty, inventive step or
industrial applicability; citations and explanations supporting such statement**

1. Statement

Novelty (N)	Yes:	Claims	1-80
	No:	Claims	
Inventive step (IS)	Yes:	Claims	44,45
	No:	Claims	1-43,46-80
Industrial applicability (IA)	Yes:	Claims	1-80
	No:	Claims	

2. Citations and explanations:

see separate sheet

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Re Item V

**Reasoned statement with regard to novelty, inventive step or industrial applicability;
citations and explanations supporting such statement**

Reference is made to the following documents:

- D1: EP-A-0 792 581
- D2: FR-A-1.087.662
- D3: US-A-4,063,664
- D4: US-A-3,837,532
- D5: US-A-4,220,281

1. Although claims 1, 2, respectively 47, 64 have been drafted as separate independent claims, they appear to relate effectively to the same subject-matter and to differ from each other only with regard to the definition of the subject-matter for which protection is sought or in respect of the terminology used for the features of that subject-matter. The aforementioned claims therefore lack conciseness and as such do not meet the requirements of Article 6 PCT.
2. The present application does not meet the criteria of Article 33(1) PCT, because the subject-matter of independent claims 1 and 2 does not involve an inventive step in the sense of Article 33(3) PCT.
 - 2.1. The document D5 is regarded as being the closest prior art to the subject-matter of claim 1, and discloses (the references in parentheses applying to this document):
A packaging means (see figures 1-3, 5) **for** retaining vapour active pyrethroids (the packaging means of D5 is **suitable for** retaining vapour active pyrethroids: see the Guidelines C-III, 4.8) comprising a holder (12) and a cellulosic based (as implied by column 4, lines 53-60) substrate (50) impregnated with the vapour active insecticide (see column 4, lines 53-57), wherein the holder (12) comprises a top (22), a base (20) and a longitudinal member (14 and/or 16) vertically extending from between the top (22) and base (20) thereby supporting the top and the base in a spaced-apart relationship (see figures 1 and 2), and wherein the cellulosic based substrate (50) has a honeycomb configuration (see figure 5) adapted to be retained between the top (22) and the base

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(20) and has a surface area so as to achieve sufficient emanation of the vapour active insecticide to control flying insects (as implied by column 3, lines 55-58 and column 4, lines 53-57).

The subject-matter of claim 1 therefore differs from this known packaging means in that the vapour active insecticide is pyrethroid.

However, pyrethroid has already been employed for the same purpose in a similar packaging means, see document D1, page 2, lines 27-28. It would be obvious to the person skilled in the art, namely when the same result is to be achieved, to use the same insecticide with corresponding effect in a packaging means according to document D5, thereby arriving at a packaging means according to **claim 1**.

- 2.2. The document D5 is regarded as being the closest prior art to the subject-matter of claim 1, and discloses (the references in parentheses applying to this document):

A packaging means (see figures 1-3, 5) **for** retaining vapour active pyrethroids (the packaging means of D5 is **suitable for** retaining vapour active pyrethroids: see the Guidelines C-III, 4.8) comprising a holder (12) and a cellulosic based (as implied by column 4, lines 53-60) substrate (50) impregnated with the vapour active insecticide (see column 4, lines 53-57), wherein the holder (12) comprises a top (22), a base (20) and a longitudinal member (14 and/or 16) vertically extending from between the top (22) and base (20), and wherein the cellulosic matrix (50) has a honeycomb configuration (see figure 5) adapted to be retained between the top (22) and base (20) and has a surface area so as to achieve sufficient emanation of the vapour active insecticide to control flying insects (as implied by column 3, lines 55-58 and column 4, lines 53-57), and wherein the cellulosic substrate (50) is comprised of two discrete parts (see figure 5, see column 6, lines 62-63).

The subject-matter of claim 2 therefore differs from this known packaging means in that the vapour active insecticide is pyrethroid.

However, pyrethroid has already been employed for the same purpose in a similar packaging means, see document D1, page 2, lines 27-28. It would be obvious to the person skilled in the art, namely when the same result is to be achieved, to use the same insecticide with corresponding effect in a packaging means according to document D5, thereby arriving at a packaging means according to **claim 2**.

3. The same reasoning applies, mutatis mutandis, to the subject-matter of the corresponding independent **claims 47 and 64**, which therefore are also considered not

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inventive.

4. Dependent **claims 3-43, 46, 48-63, 65-80** do not contain any features which, in combination with the features of any claim to which they refer, meet the requirements of the PCT in respect of inventive step, see documents D1-D5 and the corresponding passages cited in the search report.
5. The combination of the features of dependent **claims 44 and 45** is neither known from, nor rendered obvious by, the available prior art.
